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MAR 13 1985

CERTIFIED MAIL

Dear Sir or Madam:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were organized under Articles of Incorporation on [REDACTED] in the state of [REDACTED].

The purposes for which the organization was formed is to provide educational oriented child care services to the employees of the [REDACTED] and to aid in the efficient operation of the [REDACTED].

Your activities consist of establishing a quality day care program for the preschool children of the employees of the [REDACTED] which will enable the [REDACTED] to recruit and retain quality employees. Enrollment is open only to [REDACTED] employees.

Your source of income is to be derived from fees collected for child care, fund raising activities such as flea markets and sale of candy, etc. and donations. Your expenditures will be for salaries, toys, furniture, rent and miscellaneous administrative costs.

The Center will be licensed by the state of [REDACTED] as a Group Day Care Center for children from age six weeks to age five years. Payment of fees is due weekly. Initially the Center will admit [REDACTED] children on a sliding scale of \$[REDACTED] per week for children two years old or younger and \$[REDACTED] per week for children from ages two to five years of age. A staff of four will be hired and parents of the children are to be given open access to their children.

Section 501(c)(3) of the Internal Revenue Code provides for exemption for organizations which are organized and operated exclusively for religious, charitable, educational, scientific, literary, or testing for public safety purposes.

According to section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations, the term "charitable," in its generally accepted legal sense, includes relief of the poor and distressed or underprivileged.

Revenue Ruling 68-166, published in Internal Revenue Cumulative Bulletin 1968-2, page 255, describes how exemption was granted to a nonprofit day care center for young children of needy working parents who have no means to provide care for their children during the day. The organization was not self-supporting and depended upon public contributions to operate.

Revenue Ruling 70-533, Cumulative Bulletin 1970-2, page 112, describes an educational day care center operated in conjunction with an industrial company that enrolls children as a basis of family financial need and the child's needs for the care and development program of the center is exempt under section 501(c)(3) of the Code. Enrollment in the Center is not limited to children of the industrial company's employees.

Internal Revenue Code Section 501(k) provides for exemption of child care organizations under section 501(c)(3) of the code after July 18, 1984 if the provision of care is away from the child's home; substantially all of the care is provided for the purpose of enabling individuals to be gainfully employed; and the services of the organizations are available to the general public.

In order to be exempt under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for the purposes specified in such section.

Your stated purposes are not those within the purview of section 501(c)(3). In addition, your operations are not charitable since your criteria for admission is limited to children of the [REDACTED] employees.

Therefore, we hold that you are not entitled to exemption from Federal income tax as a charitable organization described in section 501(c)(3) of the Code.

We have also considered exemption for your organization within the meaning of section 501(c)(3) of the Code as an educational organization.

The Income Tax Regulations describe an educational organization, such as a school, as one which has a regularly scheduled curriculum, a regular faculty, and a regularly enrolled body of students in attendance at the place where the educational activities are regularly carried on.

[REDACTED]

Since you do not meet the criteria of a school, it was determined that your organization is not descriptive of an educational organization within the meaning of Section 501(c)(3).

Your organization may desire to file an application under Section 501(c)(9) of the Code for consideration of qualification as a Voluntary Employees' Beneficiary Association. Form 1024 is enclosed for your use.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your requests for conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days from the date of this letter, this determination will become final and a copy of this letter will be sent to the appropriate state officials in accordance with Section 6104(c) of the Internal Revenue Code.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this Section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]
District Director